

# **EXHIBIT B**

1           UNITED STATES DISTRICT COURT  
2           EASTERN DISTRICT OF VIRGINIA  
3           (Richmond Division)  
4       ePLUS, inc.,  
5           Plaintiff,  
6       -against-      Civil Action No.  
7                          3:09-cv-620(JRS)  
8       LAWSON SOFTWARE, INC.,  
9           Defendant.

10                     June 10, 2010  
11                     10:44 a.m.

12                     Videotaped Deposition of LAURENE McENENY,  
13           taken pursuant to Subpoena, at the offices of  
14           Goodwin Procter LLP, 620 Eighth Avenue, New  
15           York, New York, before ERIC J. FINZ, a Shorthand  
16           Reporter and Notary Public within and for the  
17           State of New York.

18                     JOB NO.: 24-180169

19                     Pages: 1 - 233

1                     1           THE VIDEOGRAPHER: This is the  
2                     video operator speaking, Douglas Huebner of  
3                     Merrill Legal Solutions. Today is June 10,  
4                     2010, and the time is 10:44.

5                     We are at the offices of Goodwin  
6                     Procter, 620 Eighth Avenue, New York, New  
7                     York, to take the video deposition of  
8                     Laurene McEneny, in the matter of ePlus,  
9                     Inc. versus Lawson Software, Inc., in the  
10                   United States District Court, Eastern  
11                   District of Virginia, Richmond Division,  
12                   Case No. 3:09-cv-620.

13                     Will counsel please introduce  
14                     themselves for the record.

15                     MR. REDDY: Srikanth Reddy from the  
16                     law firm of Goodwin Procter on behalf of  
17                     the plaintiff ePlus, Inc.

18                     MR. ROBERTSON: Scott Robertson  
19                     from Goodwin Procter for plaintiff.

20                     MS. HUGHEY: Rachel Hughey from  
21                     Merchant & Gould for defendant Lawson  
22                     Software.

23                     MR. SAHNER: Todd M. Sahner from  
24                     Marcus Brody on behalf of the witness.

25                     THE VIDEOGRAPHER: Will the court

1           A P P E A R A N C E S:  
2           GOODWIN PROCTER LLP  
3           Attorneys for Plaintiff  
4           Exchange Place  
5           Boston, Massachusetts 02109  
6           BY: SRIKANTH K. REDDY, ESQUIRE

7           -AND-

8           GOODWIN PROCTER LLP  
9           901 New York Avenue, Northwest  
10           Washington, DC 20001

11           BY: SCOTT L. ROBERTSON, ESQUIRE

12           MERCHANT & GOULD  
13           Attorneys for Defendant  
14           80 South Eighth Street  
15           Minneapolis, Minnesota 55402

16           BY: RACHEL C. HUGHEY, ESQUIRE

17           MARCUS BRODY FORD KESSLER & SAHNER LLC  
18           Attorneys for the Witness  
19           5 Becker Farm Road  
20           Roseland, New Jersey 07068

21           BY: TODD M. SAHNER, ESQUIRE

22           ALSO PRESENT:

23           DOUGLAS HUEBNER, Videographer

2                     reporter please swear the witness.

3                     L A U R E N E    M c E N E N Y,  
4                     having been first duly sworn by the Notary  
5                     Public (Eric J. Finz), was examined and  
6                     testified as follows:

7                     EXAMINATION BY  
8                     MR. REDDY:

9                     Q. Good morning. Would you please  
10                   state your full name for the record?

11                     A. My name is Laurene Jean, maiden  
12                   name, which I used in business is Fielder, and  
13                   my married name is McEneny.

14                     Q. Do you have a preference of  
15                     Ms. McEneny versus Ms. Fielder?

16                     A. That's fine.

17                     Q. I'll try to make sure I get that  
18                     correct. I was hoping you'd say Fielder.

19                     A. Before we sold the company I would  
20                     have, but now I'm officially a one name person  
21                     here.

22                     Q. My name is Srikanth Reddy, I  
23                     represent the plaintiff in this matter, ePlus,  
24                     Inc.

25                     Ms. McEneny, do you understand that  
26                     your answers today are being given under oath

1 and that you are under the same obligation as  
2 you would have been in court to answer  
3 truthfully and completely?

4       **A. Yes.**

5       Q. And have you ever given a  
6 deposition before?

7       **A. No.**

8       Q. And so in that case I'll go over  
9 some different rules, and if at any time you  
10 have any questions about the process or anything  
11 you should certainly feel free to ask those. If  
12 any of my questions are unclear just let me know  
13 and I'll try to clarify them.

14       Will you do that?

15       **A. Sure.**

16       Q. If you need to take a break at any  
17 time, just let me know. I may ask you to wait  
18 if we are in the middle of a question, but  
19 otherwise we'll certainly take a break if you  
20 need to.

21       Do you understand that?

22       **A. Um-hum.**

23       Q. And because the court reporter is  
24 typing all the questions and all the responses,  
25 he generally needs an audible response. So

5

1       **A. Yes.**

2       Q. And are you represented by counsel  
3 here today?

4       **A. Yes.**

5       Q. And who is that representing you?

6       **A. Todd Sahner.**

7       MR. REDDY: Ms. McEneny, I'm  
8 handing to the reporter what I would like  
9 him to mark as Exhibit No. 1.

10       (McEneny Exhibit 1 for  
11 identification, Subpoena.)

12       Q. You can take a couple, however much  
13 time you need to familiarize yourself with that  
14 document. And look up at me after you've had a  
15 chance to do so.

16       **A. Is this the one that was sent to me  
17 originally, or is this something different?**

18       Q. It should fairly and accurately  
19 depict what was sent to you. Perhaps if you  
20 want to take a look just to confirm.

21       **A. This looks identical.**

22       **Okay.**

23       Q. So have you seen this document  
24 before?

25       **A. I believe this is the same document**

6

1 um-hum --

2       **A. Yes.**

3       Q. -- as opposed to yes, might be a  
4 little bit more helpful. Thank you.

5       Are you taking any medication or  
6 drugs that would affect your ability to answer  
7 questions truthfully and accurately here today?

8       **A. No.**

9       Q. Is there any reason that you feel  
10 you would not be able to give truthful answers  
11 to my questions today?

12       **A. No.**

13       Q. Your counsel, Mr. Sahner, who I  
14 understand is Mr. Sahner, he may object from  
15 time to time. But unless he specifically  
16 instructs you not to answer one of my questions,  
17 I expect you to answer my question.

18       Do you understand that?

19       **A. Yes.**

20       Q. And the court reporter here, again,  
21 he needs to take down everything we say. So he  
22 can't take down nonverbal responses or shakes of  
23 your head. So just make sure that you verbally  
24 respond to each of my questions. Do you  
25 understand that?

7       **that I was given when I was subpoenaed.**

8       Q. And if I can direct your attention  
9 to page number 7. The heading says "schedule A,"  
10 documents."

11       **A. Um-hum.**

12       Q. Do you see that there are five  
13 requests for production listed there?

14       **A. Yes.**

15       Q. And have you produced documents in  
16 response to this subpoena?

17       **A. Yes, I have.**

18       Q. And what did you produce?

19       **A. Can I look? I brought a file of  
20 what I sent you. Is that okay?**

21       Q. Yes, that's appropriate, sure.

22       **A. I mailed to you a letter, let's**

23 **see, all documents provided to Lawson, so  
24 basically I sent a letter. And it had the --  
25 some email correspondence with Rachel Hughey.  
And a copy of an engagement letter that they had  
sent. And, let's see what else was in here.**

**And also I sent a USB, a ScanDisk  
with some attachments that Rachel had sent,  
which was a subpoena that their firm had sent me  
a letter, the SAP trial transcript, day one and**

9      1 **day two, and -- so basically the content of what  
2 she sent.**

3      Q. I don't mean to interrupt you, but  
4 perhaps to speed the process along, I can  
5 represent that all the documents you produced to  
6 us have been produced in this litigation and  
7 given to Lawson Software. I kind of wanted to  
8 go through the specific requests that were made.

9      Have you provided any documents to  
10 Lawson during the course of this litigation?

11     A. **The only things, I gave you  
12 everything I would have given them.**

13     Q. And are there any existing  
14 agreements or contracts between you and the  
15 defendant Lawson Software?

16     A. **No.**

17     Q. And have you invoiced or billed  
18 Lawson Software for anything with regards to  
19 this litigation?

20     A. **No.**

21     Q. And has Lawson provided any  
22 documents to you during the course of this  
23 matter?

24     A. **Only the things I've given you.**

25     Q. And did you review the documents

11     1 other attorney from the Merchant & Gould law  
2 firm or from anybody from Lawson Software with  
3 regards to this matter?

4      A. **Everything that's happened has been  
5 documented and provided to you.**

6      Q. Have you had any conversations with  
7 anybody concerning the patents that are at issue  
8 in this matter?

9      A. **When you say anybody, my husband,  
10 yeah, we've talked about it.**

11     Q. Other than your husband, have you  
12 had discussions with anybody with regards to the  
13 patents that are at suit in this litigation?

14     THE WITNESS: Does that include our  
15 conversation?

16     MR. SAHNER: Our conversations are  
17 privileged.

18     A. **Then no.**

19     Q. I'm not asking about the specific  
20 subject matter of anything you may have  
21 discussed with your counsel. But are you  
22 familiar with the patents that are at suit in  
23 this litigation?

24     A. **I read them very carefully years  
25 ago. I have not looked at them. I only looked**

10     1 that Ms. Hughey sent to you during the course of  
2 the litigation?

3      A. **I did read it briefly. I haven't  
4 studied it.**

5      Q. And do you recall specifically what  
6 documents she had sent you?

7      A. **She sent me, basically my testimony  
8 from the original trial, which was the ePlus/SAP  
9 trial. So I did read through that.**

10     Q. Do you know why she sent you those  
11 specific documents?

12     A. **No, not really.**

13     Q. Did you have any conversations or  
14 any discussions with anybody from Lawson  
15 Software or the law firm of Merchant & Gould  
16 with regards to this litigation?

17     A. **Other than what I shared. I mean,  
18 Rachel contacted me, which I summarized our  
19 conversation for you and provided that. They  
20 asked if I would be interested in being an  
21 expert witness, and I indicated I'm not.**

22     Q. And other than the conversations  
23 that were summarized in the documents that you  
24 provided, were there any other conversations or  
25 discussions that you had with Ms. Hughey or any

12     1 **at my testimony.**

2      Q. And when you say that you read them  
3 carefully, how many patents are you referring  
4 to?

5      A. **I don't really recall how many  
6 patents were in question. This was a few years  
7 ago when I was involved in the ePlus versus SAP  
8 case.**

9      Q. When you say those patents, are you  
10 referring to the patents that were at suit in  
11 the SAP litigation?

12     A. **Correct.**

13     Q. Were there any patents other than  
14 those patents that were at suit in the SAP  
15 litigation assigned to ePlus that you reviewed?

16     A. **No.**

17     Q. Now, when you say that you  
18 discussed the patents in suit with your husband,  
19 what was the general substance of those  
20 conversations?

21     MR. SAHNER: I just want to caution  
22 the witness, your discussions with your  
23 husband are privileged. What that means is  
24 that you don't have to disclose what you  
25 said, but you can disclose just the general

<p>1 Q. Just here testifying today, do you 2 recall the specific functionality that might 3 have been added from version 1 to version 12? 4 A. <b>I remember some of it.</b> 5 Q. Now, you testified that you no 6 longer are employed by or have any interest with 7 P.O. Writer -- I'm sorry, with Purchasing Net; 8 correct? 9 A. <b>Correct.</b> 10 Q. Have you retained any documents 11 from either Purchasing Net or American Tech that 12 were generated while you were affiliated with 13 those two companies? 14 A. <b>I probably have a few things. Some files. I have kept a couple of folders on customers, you know, we were working with just to make sure if anybody had any questions that they wanted to call me, you know, they could. So just trying to be helpful to the staff that was left behind. We sold the company, so still felt some responsibility to the people.</b> 15 Q. So other than the customer folders, 16 are you aware of any other documents that you 17 might have retained from Purchasing Net? 18 A. <b>You know, I'm not really sure, we</b></p>	<p>21</p> <p>1 A. <b>To me it would be the same, it was just a name change.</b> 2 Q. Did American Tech have a general 3 policy with regards to the schedule by which it 4 would release different versions of the P.O. 5 Writer project? 6 A. <b>Generally we did one major release per year.</b> 7 Q. So between 1984 and 1995, that's 8 twelve years actually, correct? I'm sorry, I'll 9 withdraw that question as well. 10 So the twelve DOS versions of the 11 P.O. Writer software, were each of those 12 versions released between 1984 and 1995? 13 A. <b>Yes.</b> 14 Q. Now, if I can start with -- I'm 15 sorry, so I think you testified that version 16 number 2 was released in 1985; correct? 17 A. <b>I'd have to double-check, but that sounds right.</b> 18 Q. Was version 3 -- when was version 3 19 released then? 20 A. <b>Generally they would be one major release per year. That was the general practice. So if you ask me about 3 then 4 then</b></p>
<p>1 <b>do have some things in the garage. And the 2 reason is Tim is writing a book, and I know he 3 saved some things. But I honestly don't know 4 what he has specifically.</b> 5 Q. Now, I think you testified that 6 version 1 of the P.O. Writer software was 7 released in 1984; correct? 8 A. <b>I believe that's correct.</b> 9 Q. Do you recall when the second 10 version of P.O. Writer was released? 11 A. <b>Probably about a year later, but I don't know the exact date.</b> 12 Q. So during that time frame, the 13 company was known as American Tech, correct? 14 So in general I'll try to refer to 15 it as American Tech for the company that you and 16 your husband started, which became Purchasing 17 Net in 2000 and which you subsequently sold in 18 2009. 19 A. <b>Um-hum.</b> 20 Q. Does that make sense? 21 A. <b>That's fine.</b> 22 Q. And if you have any questions at 23 any time as to what entity I'm referring to, you 24 could certainly feel free to ask.</p>	<p>22</p> <p>1 <b>5, they kind of fall along that line. It was the general practice to try and do that.</b> 2 Q. Now, when was version 10 of the 3 P.O. Writer product released? 4 A. <b>It was released in the -- well, can I check my notes? I want to double-check to make sure I get this right.</b> 5 Q. Sure. 6 A. <b>Should be '83, but let me just double-check.</b> 7 <b>Yes, '83. I'm sorry, '93.</b> 8 Q. When you say you were checking your 9 notes, the notes you were checking was your 10 testimony from the SAP case; is that correct? 11 A. <b>That's right.</b> 12 Q. Now, other than your testimony from 13 the SAP case, is there anything else that you 14 have to corroborate that version 10 of the P.O. 15 Writer product was released in 1993? 16 A. <b>No. Just everything I testified to originally would still be true.</b> 17 MR. REDDY: I'm handing to the 18 reporter what I'll ask him to mark as 19 McEneny Exhibit No. 2. 20 (McEneny Exhibit 2 for</p>

	89		91
1	that there was not a prohibition against 2 duplication of either the software or the 3 manuals with respect to the trial version of the 4 software?	1	<b>A. That's correct.</b>
5	MS. HUGHEY: Objection; asked and 6 answered.	2	Q. And those user defined fields could 3 not have been searched in the version 10 of the 4 P.O. Writer Plus system; correct?
7	<b>A. Yeah, I think I've already answered 8 that.</b>	5	MS. HUGHEY: Objection; 6 mischaracterizes the witness' testimony.
9	Q. What was your answer?	7	<b>A. The user defined fields could not 8 be searched to do an item look up. And to my 9 knowledge, and based on what's in this document, 10 they couldn't be searched in this version. 11 That's my understanding after looking at this 12 document.</b>
10	<b>A. My answer is I believe that it was 11 most probable that there was some kind of 12 wording to protect us on that. But I couldn't 13 say for sure unless I had the agreement in front 14 of me.</b>	13	<b>So they were there for reference.</b>
15	Q. If I could return for a moment to 16 Exhibit No. 2, which was I believe the guided 17 tour.	14	Q. You can set that document aside.
18	<b>A. Okay. Got it.</b>	15	(McEneny Exhibit 5 for
19	Q. And the page which we've been 20 referring to as L 126664. Which were the 21 results from the purchase requisitioning 22 section.	16	identification, document entitled "Tenth 17 Edition," production numbers L 126501 18 through L 126513.)
23	<b>A. Okay.</b>	19	MR. REDDY: I've handed a document 20 to be marked as Exhibit No. 5, which is a 21 document Bates labelled L 126501 through 22 126513. And at the top it states "tenth 23 edition," in parentheses, April 1993.
24	Q. So if a user selected an item from 25 this list, at this point was there any way that	24	Q. If you can take a few moments to 25 familiarize yourself with that document.
	90		92
1	a user could cross-reference this item with 2 other items in the P.O. Writer database?	1	And do you recognize the collection 2 of approximately twelve pages of documents?
3	MS. HUGHEY: Objection; vague.	3	<b>A. Yes, I recognize these as pages 4 from the purchasing manual at that point in 5 time.</b>
4	Q. You can answer if you understand 5 the question.	6	Q. Now, when you say that point in 7 time, what are you referring to?
6	<b>A. On this screen, they're looking at 7 a list of items that match their search 8 criteria. If they were to select the 9 combination, the ship forward to look for 10 additional information, that's shown on the next 11 page, the 665.</b>	8	<b>A. Spring of '93.</b>
12	<b>The only way in this version that they could cross-reference is if they chose, as 14 a customer, to implement the user defined fields 15 or to provide additional information in the 16 extended description area as to what a 17 cross-reference might be. So that would 18 strictly be how that particular customer might 19 have chosen to implement the product.</b>	9	Q. And is that referring to version 10 10 of the P.O. Writer Plus software?
20	Q. And as we discussed earlier, that 21 additional line information, the user defined 22 fields within the additional line information, 23 was entirely up to the user to enter whatever 24 information they wanted to in those fields; 25 correct?	11	<b>A. That's correct. This specifically 12 would be relating to the purchasing module.</b>
21		13	Q. Now, if I can direct your attention 14 to the third page of the document. It states 15 "no part of this work may be reproduced or used 16 in any way for or by any means, graphic, 17 electronic or mechanical, including 18 photocopying, recording, taping or information 19 storage and retrieval systems, without express 20 permission from American Tech, Inc."
22		21	Did I read that correctly?
23		22	<b>A. Yes.</b>
24		23	Q. Now, was that prohibition against 25 copying of the manual placed on every manual sent by American Tech with respect to version 10

<p>1                   (Lawson Exhibit 102 for 2 identification, document, production 3 numbers L 0126482 through L 0126500.) 4 Q. I'm handing you what's been marked 5 Lawson Exhibit 102. Bates range L 0126482 to 6 500. 7                   Do you recognize this document? 8 A. <b>I do.</b> 9 Q. What is this document? 10 A. <b>This is the users manual for our EDI interface.</b> 11 Q. And again, do you see on the front 12 of the page that it says version 10.0? 13 A. <b>Yes.</b> 14 Q. Does this accurately represent the 15 product that was sold to customers prior to 16 August 10, 1993? 17 A. <b>Yes.</b> 18 Q. Is this a document that was 19 provided to customers prior to August 10, 1993? 20 A. <b>Yes.</b> 21 Q. You can put that aside. 22 (Lawson Exhibit 103 for 23 identification, document, production 24 numbers L 0126501 through L 0126513.)</p>	<p>125</p> <p>1 identification, Subpoena.) 2 Q. I'm handing you what's been marked 3 Lawson Exhibit 104. It is not a manual. I'm 4 going a little bit out of order because I wanted 5 to preserve the numbering of my documents. 6                   Do you recognize that document? 7 A. <b>Yes, I do.</b> 8 Q. What is this document? 9 A. <b>This was the subpoena emailed to me by you to appear here today.</b> 10 Q. Okay, I have no further questions 11 on that document. 12 (Lawson Exhibit 105 for 13 identification, document, production 14 numbers L 0126702 through L 0126717.) 15 Q. I'm handing you what's been marked 16 Lawson Exhibit 105. It's Bates number L 0126702 17 to L 0126717. 18                   Do you recognize this document? 19 A. <b>I do.</b> 20 Q. What is this document? 21 A. <b>The users manual for the P.O. Writer Plus fax module.</b> 22 Q. Does this accurately represent the 23 product that was sold to customers prior to</p>
<p>126</p> <p>1 Q. I'm handing you what's been marked 2 Lawson Exhibit 103. The Bates range is L 3 0126501 to L 0126513. 4                   Do you recognize this document? 5 A. <b>Yes, I do.</b> 6 Q. What is it? 7 A. <b>It's the section of the purchasing manual for P.O. Writer Plus.</b> 8 Q. Does this accurately represent the 9 product that was sold to customers prior to 10 August 10, 1993? 11 A. <b>Yes.</b> 12 Q. Is this a document that was 13 provided to customers prior to August 10, 1993? 14 A. <b>Yes.</b> 15 Q. And do you see the page L 0126501, 16 it says tenth edition, April 1993, software 17 revision 10.0? 18 A. <b>Yes.</b> 19 Q. Is that consistent with what you've 20 already told me about the other documents we've 21 discussed? 22 A. <b>Yes.</b> 23 Q. Okay. You can put that aside. 24 (Lawson Exhibit 104 for</p>	<p>128</p> <p>1 August 10, 1993? 2 A. <b>Yes.</b> 3 Q. Is this a document that's provided 4 to customers prior to August 10, 1993? 5 A. <b>Yes.</b> 6 Q. Okay, I have no further questions 7 on that document. 8 MR. SAHNER: Can we go off the 9 record for one second. 10 THE VIDEOGRAPHER: Going off the 11 record at 2:44. 12 (Discussion off the record.) 13 THE VIDEOGRAPHER: Back on the 14 record, 2:45. 15 (Lawson Exhibit 106 for 16 identification, document, production 17 numbers L 0127297 through L 0127504.) 18 BY MS. HUGHEY: 19 Q. I'm going to hand you what's been 20 marked Lawson Exhibit 106. It's marked L 21 0127297 to L 0127504. 22                   Do you recognize this document? 23 A. <b>Yes, I do.</b> 24 Q. What is this document? 25 A. <b>It's the users manual for the P.O.</b></p>